



591084

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

978377

Judge Robert J. Miller

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

CONSOLIDATED RAIL CORPORATION)
a/k/a/ CONRAIL,)

Defendant and)
Third Party Plaintiff,)

vs.)

PENN CENTRAL CORPORATION,)
et al.,)

Third Party Defendants,)
-----/

CASE NO.:

S90-00056

The deposition of MELVIN THIMLER,

Date: Tuesday June 8, 1993

Time: 2:30 o'clock p.m.

Place: 205 West Jefferson Boulevard
Suite 312
South Bend, Indiana 46601

Called as a witness by the Plaintiff, in
accordance with the Federal Rules of Civil
Procedure, pursuant to notice duly served.

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Before Lois A. Schoenbeck
Notary Public, State of Indiana

APPEARANCES:

MR. STEVEN C. MASON
ASSISTANT REGIONAL COUNSEL
U. S. ENVIRONMENTAL PROTECTION AGENCY
Office of Regional Counsel, CS-3T
77 West Jackson Boulevard
Chicago, Illinois 60604,

For the Plaintiff;

MR. JAMES A. ERMILIO
BINGHAM, DANA & GOULD
Suite 1200
1550 M. Street, N.W.
Washington, D.C. 20005,

For Defendant and Third Party Plaintiff;

MR. PIERCE E. CUNNINGHAM
FROST & JACOBS
2500 Central Trust Center
201 East Fifth Street
Cincinnati, Ohio 45202,

For Third Party Defendant.

I N D E X

THE DEPOSITION OF

MELVIN THIMLER

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E X H I B I T S

None

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MELVIN THIMLER,

called as a witness by the Plaintiff, being
first duly sworn, was examined and testified as
follows:

DIRECT EXAMINATION

BY MR. MASON:

Q Mr. Thimler, I'm Steve Mason. I'm with the
United States Environmental Protection Agency,
and I'm going to be asking you some questions
today about the Conrail yard. Mr. Ermilio and
Mr. Cunningham will likely ask you some
questions also.

Would you please state your full name for
the record?

A Melvin Thimler.

Q What is your present address?

A (b) (6)

Q Have you provided deposition testimony before?

A Yes.

Q Anything relating to the Conrail rail yard?

A Yes.

Q What was the matter that you gave your testimony
for?

A I don't understand that.

Q Have you had your deposition taken before?

- 1 A Yeah.
- 2 Q What was the reason for the deposition?
- 3 A Well, they say there's chemicals in the water in
4 the yard is all I know; that's all I know.
5 That's hearsay on my part.
- 6 Q Was a court reporter taking a statement from you
7 regarding this Conrail rail yard?
- 8 A Which court reporter are you talking about?
- 9 Q Any court reporter.
- 10 A Yes.
- 11 Q When was that?
- 12 A In April -- March.
- 13 Q Of what year?
- 14 A This year.
- 15 Q Where was that?
- 16 A Arizona.
- 17 Q Who was present at that deposition?
- 18 A (Indicating) That gentleman there.
- 19 Q Mr. Cunningham?
- 20 A Um-hmm.
- 21 Q Did you bring that statement with you today?
- 22 A No.
- 23 Q Have you reviewed that statement?
- 24 A I read it.
- 25 Q When did you read it?

1 A In March.

2 Q You didn't bring a copy with you today?

3 A No.

4 Q What was that generally; what was that statement
5 about?

6 A Use of chemicals in the Elkhart yard. I
7 shouldn't say "yard," I should say shop --
8 Elkhart shop.

9 Q We'll talk about that here today. Have you
10 provided deposition testimony in any other
11 instances, any other times?

12 A Yeah, one time in Elkhart, I guess a couple
13 years ago.

14 Q What was that about?

15 A That was for Conrail, same thing.

16 Q Was there a court reporter present?

17 A I don't think so.

18 Q Who did you speak with?

19 A I don't remember. I'd have to get my letters
20 out.

21 Q Did you bring those with you today?

22 A No.

23 Q And again, you don't recall who that
24 conversation was with?

25 A No.

1 Q What was the substance of that conversation?

2 A The use of chemicals in the shop, the Elkhart
3 shop.

4 Q Let's talk about your time at the rail yard.

5 When did you first start working at the
6 Elkhart yard?

7 A I think it was February of '71. It might have
8 been '72.

9 Q Who was the owner of the yard at that time?

10 A Penn Central.

11 Q And prior to February of '71, were you in the
12 railroad business?

13 A I was in Youngstown.

14 Q What year was that? What years were you in
15 Youngstown?

16 A Let's see. About '68 to '71.

17 Q That was at Youngstown?

18 A Um-hmm -- well, New Castle, Pennsylvania, and
19 Youngstown.

20 Q Who was the owner of that yard?

21 A Penn Central.

22 Q Now, prior to 1968, were you in the rail yard or
23 railroad business?

24 A I was in Altoona, Pennsylvania, from about '65
25 till '68. These dates aren't correct, you know.

- 1 Q To the best of your recollection, from '65 to
2 '68 you were at Altoona?
- 3 A (Witness nodded head.)
- 4 Q Who owned the Altoona facility; was it Penn
5 Central?
- 6 A No. Pennsylvania Railroad.
- 7 Q And prior to 1965, were you in the rail yard or
8 the railroad business?
- 9 A I was in Philadelphia from '63 to '65.
- 10 Q Now, was that at a rail yard?
- 11 A Um-hmm, south Philadelphia.
- 12 Q Who owned that rail yard?
- 13 A Pennsylvania Railroad.
- 14 Q Prior to 1963, were you at a rail yard?
- 15 A I was in Fort Wayne from '50 to '60, and I was a
16 carman for Pennsylvania Railroad.
- 17 Q Now, that was in Fort Wayne?
- 18 A Yes, Indiana.
- 19 Q So from 1960 to 1963, do you recall where were
20 you working at that time?
- 21 A I was furloughed. I was working as a carpenter.
- 22 Q Prior to 1950, were you working at a rail yard?
- 23 A No. I was twenty-one. I was in the Navy.
- 24 Q So in 1950 at Fort Wayne, who was the owner of
25 that yard?

1 A Pennsylvania Railroad.

2 Q Was it the New York Central Railroad?

3 A No. Pennsylvania Railroad.

4 Q So you started working at the Elkhart rail yard
5 in 1971?

6 A It was either '71 or '72. I kind of forget
7 which.

8 Q What was your first job at Elkhart?

9 A General foreman -- general car foreman, I guess
10 you might say.

11 Q What shop, then, did you work out of?

12 A What shop?

13 Q Yes.

14 A Car shop.

15 Q What were your duties as the general foreman?

16 A To oversee the men, see that the job was done.

17 Q Did you have any responsibility for ordering
18 materials?

19 A No -- well, yeah, ordering materials for cars
20 such as truck sides, truck bolsters, wheels.
21 You told stores what you needed, and they would
22 order it.

23 Q How about cleaners?

24 A No, didn't order any of that.

25 Q Who would do that?

1 A Stores department.

2 Q How would the stores department know that the
3 car shop needed more cleaner?

4 A We always kept it on hand -- they always kept it
5 on hand.

6 Q So it was kept on hand at the car shop?

7 A Um-hmm.

8 Q So what were some of the functions that were
9 done at the car shop?

10 A Well, in the shop you repaired cars.

11 Q Would you repair boxcars?

12 A Boxcars, gondolas, flat cars, whatever.

13 Q Did you repair tank cars?

14 A Yep.

15 Q Do you recall doing any repairs on tanks cars
16 after 1971?

17 A Oh, yeah.

18 Q What sort of repairs did you do?

19 A Safety appliances, wheels, truck sides,
20 whatever, but nothing on the tank.

21 Q While you were general foreman of the car shop,
22 do you ever recall tank cars coming through with
23 any holes in them or splits in the tanks?

24 A (Witness shook head.) Well, I'd say there was
25 one tank car that was split. It was underneath

1 that all the way through, evidently.

2 Q Where was the split?

3 A On the bottom of the car. It was an empty tank
4 when I saw it. That's all I know.

5 Q How big was the split that was there?

6 A (Indicating) About that wide.

7 Q Six inches?

8 A Yeah, half way around.

9 Q Did it --

10 A It started half way and went up around this way
11 (indicating).

12 Q So it wrapped around sort of the lower half of
13 the tank?

14 A Yeah.

15 Q Do you recall what year that may have been that
16 you saw that?

17 A (No response.)

18 Q Would it have been in the first couple years you
19 started working there?

20 A No. I think it was probably maybe '80 or '81.

21 I've seen tank cars with holes punched in
22 them, but they were all empties. If it was
23 loaded, we wouldn't mess with it.

24 Q Did you see any tank cars that were loaded that
25 had holes in them?

1 A No.

2 Q Did you see tank cars with holes in them at any
3 place on the yard?

4 A Unh-unh -- well, no, this didn't have a hole in
5 it. We had one tank car come from Chicago off
6 the Burlington Northern that was leaking. And
7 I'm not going to tell you what the chemical was
8 because I don't know. But it was an empty tank,
9 which was not completely empty. It must have
10 had two or three hundred gallons of chemical in
11 it. Because when it come into the yard, itt was
12 leaking. We right away got the crane to pick up
13 the one end so it wouldn't leak and then pulled
14 it out to a side yard.

15 Q What year was that, do you recall?

16 A Probably '83 or '84.

17 Q '83 or '84?

18 A Yes.

19 Everybody in town knows about that one.

20 Q Are you familiar with journal boxes?

21 A Um-hmm.

22 Q Could you describe what a journal box is?

23 A It has the wedge, the brass, and the journal of
24 the wheel inside it. It's about anywhere from
25 nine to twelve inches square.

1 Q And where is it located on a car? Is it
2 underneath the car?

3 A Yeah. It's built into the truck side and it's
4 right outside each wheel.

5 Q What's the function of the journal box?

6 A It's like the bearing on your car. The journal
7 is the bearing -- the journal bearing above it.
8 The journal is an axle. You put the bearing on
9 and you put the wedge on and that carries the
10 car.

11 Q When you were shop foreman in 1971, were journal
12 boxes cleaned out?

13 A No, not at that time. They wiped them out at
14 that time with a rag.

15 They had a system there on the old New York
16 Central, but it went kaput before I ever got
17 there. It was a overhead system with hoses,
18 guns, and they no longer ever used it.

19 Q So how were the journal boxes cleaned after '71,
20 with a rag?

21 A With a rag, um-hmm.

22 Q What was put on the rag?

23 A Nothing. Just wiped the box out. What you pick
24 up in a box is a little oil and fuzz from the
25 journal pad, and you try to get that lint or

1 fuzz or whatever you call it cleaned out of
2 there otherwise it gets underneath the bearing
3 and causes a hot box.

4 Q So in 1971 or later were any solvents or
5 chemicals used or sprayed on journal boxes?

6 A Yes, in about '83 or '84, they wanted us to
7 clean the journal boxes again with solvent. So
8 they used solvent with a little box, you know,
9 that must have held a gallon, and you used air
10 with it and blew in there, and blew it out at
11 the same time. Now, whatever blew out was
12 caught in a pan that was put up against the
13 wheel.

14 Q What year did that practice start?

15 A Probably in '83, I think. We did it other
16 locations, understand, the same way, but they
17 wanted to start it up there again in Elkhart at
18 that time, so they started it up.

19 Q Do you know why they started it up this way?

20 A I guess the officials didn't think we were
21 getting the boxes clean enough.

22 Q Was there a memo or a directive that came to you
23 at the car shop telling you to start doing that
24 again?

25 A I can't remember. I would imagine there was,

1 but I don't know.

2 Q What was the solvent, do you know?

3 A Just solvent is all I know.

4 Q You don't remember the name?

5 A No.

6 Q Did it come in a --

7 A It came in a fifty-five gallon drum.

8 Q Was the drum then connected to a hose?

9 A It had a pipe, you know, and a pump and a hose,
10 and you filled whatever you had to have and that
11 was it. It's like a filling station, you know.

12 Q What color was the drum?

13 A They had black ones and blue ones is all I know.

14 Q What was in place to -- strike that.

15 So you would spray this mixture into the
16 journal boxes?

17 A It's not a mixture. Well, you sprayed air and
18 solvent into the journal box to clean it out.

19 Q And then once you cleaned it out --

20 A Then once you cleaned it out, you wiped the rest
21 of it all out with a rag.

22 Q Where would the solvent go?

23 A You dumped it in a waste barrel.

24 Q How did it get from the journal box into the
25 waste barrel?

1 A You carried it over in this pan and you dumped
2 it.

3 Q So where was the pan located?

4 A It was on the ground underneath the journal box.

5 Q Was it the same size as the journal box,
6 roughly?

7 A (Indicating) Oh, no. It was about that long
8 and about that wide and it sloped up on the end.
9 It was a pan about that wide and about that
10 high, I guess.

11 Q Did the pans ever overflow if a box was
12 particularly dirty and you had to use a lot of
13 solvent?

14 A No, you wouldn't use that much. Also, when
15 you're cleaning out, you know, when you clean a
16 journal box, you have to take the pad out.

17 You know what a journal pad is?

18 Q Right.

19 A You pull that out and drop it in that pan. So
20 the pad and the solvent and everything went in
21 there, and then they dumped it.

22 Q Again, this is 1983 and later?

23 A Um-hmm.

24 Q How long did that practice continue?

25 A I don't know. You know men, they just get tired

1 of doing things like that and then they no
2 longer do it. And if the boss doesn't watch it,
3 nobody does it anymore.

4 Q Do you remember a year when that stopped or why
5 it was stopped?

6 A That probably stopped in a year. I'm not saying
7 it stopped completely. I'm just saying they
8 stopped it. Men will be men; they just don't
9 want to do it anymore.

10 Q When did you leave the car shop, what year?

11 A '86. In '85 I was off for about six months or
12 more for a heart attack and went back for a
13 while and then I give it up and retired.

14 Q From '83 to '86, was this practice you just
15 described using the solvent used to clean
16 journal boxes, did that continue?

17 A I would say in '85 anyhow, but I don't know
18 beyond that.

19 Q Was this system of using the solvent to clean
20 journal boxes used at the other rail yards you
21 were at prior to coming to Elkhart?

22 A (Witness nodded head.)

23 Q Which yards did you do that at?

24 A Philadelphia, south Philadelphia, not at
25 Youngstown because they didn't have that much

1 business. We did it in Fort Wayne when I was
2 there, in south Philadelphia. The other yards
3 were smaller, and we didn't have that much
4 repacking.

5 Q So if it was used at other yards prior to --

6 A Altoona yard -- Altoona car shop.

7 Q So why was it not used at Elkhart from '71 to
8 '83; what was the reason for that?

9 A Just didn't want to use it. I don't know.

10 Q Was there a mechanical reason? Were the
11 bearings different?

12 A Well, the system broke down so then they just
13 didn't do it anymore.

14 Q Did the system break down when you were there or
15 before?

16 A No, before. I don't know when it broke down.

17 Q Do you know whether that solvent process of
18 cleaning clean journal boxes was used at Elkhart
19 prior to 1971?

20 A I don't know. I wasn't there. I know they had
21 the system there. That's all I can tell you.
22 Because it was a new shop, new yard, and they
23 set it in there. Now, what it was used for, I
24 don't know. I never been there.

25 Q Was that solvent that was used to clean the

1 journal boxes used for anything else in the
2 shop?

3 A No, not that I know of.

4 Q You don't recall whether it was used to clean
5 the floors or the tracks?

6 A Unh-unh.

7 Q What was used to clean the floors and the track
8 in the shop?

9 A All I can tell you is a cleaner. I don't know
10 what it was, but it was in a black barrel.

11 Q Were there any bands on the barrel?

12 A No.

13 Q It was solid black?

14 A Solid black.

15 Q Were there any names on it -- company names?

16 A No, I didn't see any.

17 Q How was that cleaner applied to the floors?

18 A They had a pipe made that had holes in it.
19 (Indicating) It was about so long and had
20 little holes in it. They put it on -- turned it
21 on the barrel, put the barrel on the forklift,
22 drove it around, and it sprayed it out.

23 Q So the solvent would run from the barrel --

24 A It wasn't solvent.

25 Q (Continuing) -- the cleaner would run from the

1 barrel into the pipe and then through the hose
2 and be sprayed around that way?

3 A Um-hmm, just drove around and spread it.

4 Q Was it allowed to sit?

5 A Yeah, you let it sit. We even used a broom, you
6 know. In the heavy spots where some grease was,
7 you'd have to use a broom to get it off, like
8 scratch it off, then you washed it off.

9 Q Do you remember when Conrail took over that
10 yard?

11 A '68 -- or whenever Conrail took over from Penn
12 Central, they took over every yard.

13 Q Do you remember when?

14 A It's '76, I guess.

15 Q Do you remember when Conrail took it over if
16 there were materials in the car shop that were
17 disposed of on the ground near the shop?

18 A No. They just took over things. It was just
19 like Penn Central. Nothing ever changed.

20 Q Are you familiar with or recall the system that
21 Penn Central used to classify cleaning
22 materials?

23 A No.

24 Q Did you ever see a manual or a guide as to what
25 were approved cleaners to be used?

1 A No.

2 Q Do you know or do you recall whether any
3 electrical parts were cleaned at the car shop?

4 A There wasn't any. Like what?

5 Q Well, any small power sources on any of the cars
6 or --

7 A No, no, we didn't have any power sources.

8 Q There wasn't any electrical equipment in the
9 shop that needed to be cleaned?

10 A Not that I know of, no. A carman wouldn't mess
11 with electricity.

12 Q Do you recall ever seeing tank cars buried?

13 A No.

14 Q At the yard?

15 A Never.

16 Q There were no tank cars buried near the car
17 shop?

18 A None that I know of. I never seen one. I would
19 never have one buried. What would I want to
20 bury a tank car for?

21 Q And you don't recall seeing one?

22 A No, never.

23 Q Do you recall discussions about any tank car
24 accidents?

25 A No. We always had, you know, you always had a

1 tank car accident. You made out a wreck report,
2 on those wreck reports are turned in. You know,
3 you have an accident on every type of car that's
4 on the railroad. Now, I don't remember any
5 specifics.

6 Q You do you recall ever hearing anything about a
7 tank car spill involving carbon tetrachloride?

8 A No. We -- I know they spilled a tank car up by
9 Plymouth; they had a big wreck. Then on the
10 south of Chicago they had a wreck. Those tank
11 cars I remember. But they didn't bury them;
12 they dug the dirt out, shipped it, and cleaned
13 the place up. That's all I know.

14 Q Have you ever heard of Magnasol?

15 A No. What did they use that for? Is that a
16 cleaner?

17 Q You haven't heard of it?

18 A I've never heard of it.

19 MR. MASON: I have nothing further
20 right now.

21 MR. CUNNINGHAM: I don't have any
22 questions.

23 MR. ERMILIO: You don't have any
24 questions?

25 MR. CUNNINGHAM: No.

1 MR. ERMILIO: I do have a few
2 questions.

3 CROSS-EXAMINATION

4 BY MR. ERMILIO:

5 Q First of all, let's start with the discussion
6 you had earlier about the cleaning of the
7 journal boxes. Prior to 1971, you mentioned an
8 overhead system?

9 A Um-hmm.

10 Q Do you know what was used, what came through
11 that overhead system?

12 A Solvent.

13 Q Did you ever use that solvent?

14 A Oh, yeah.

15 Q Now, I'm talking about the period prior to 1971.

16 A Yeah, I used it in Fort Wayne.

17 Q Can you describe it to me?

18 A The solvent?

19 Q Yes.

20 A All I know if it's a clear chemical. That's all
21 I know

22 Q Did it have a certain smell?

23 A No, I don't think it had a smell at all.

24 Q Why do you call it a solvent?

25 A Everybody calls it a solvent; that's what you

1 call it.

2 Q Did anyone ever tell you it was a solvent?

3 A Just a solvent. That's all I know.

4 Q Now, going to the substance that was used by
5 Conrail to clean journal boxes. You mentioned,
6 I think, it was approximately 1983 that Conrail
7 began using a solvent from a one-gallon box.

8 A They built boxes. You put it in there and you
9 spray it out through a hose -- I mean, through a
10 pipe with an air hose attached to it.

11 Q And you called that a solvent?

12 A Yeah.,

13 Q What was in that, do you know? Do you know the
14 composition of that?

15 A No. Same thing, solvent.

16 Q Who told you that it was a solvent?

17 A I suppose my general foreman when he was in Fort
18 Wayne.

19 Q But you were in Fort Wayne back prior to '71.
20 I'm talking about 1983.

21 A Yeah. It's always been a solvent.

22 Q Was it the same substance used in '83 as was
23 used prior to '71?

24 A I think. You know, I don't know of them
25 changing it any.

1 Q Would you know if they had changed?

2 A Yeah, I think I would.

3 Q Do you know what a solvent is?

4 A No. A chemical.

5 Q A solvent is a chemical?

6 A Yeah.

7 Q Do you know what a chlorinated solvent is?

8 A No.

9 Q Have you ever heard of Stoddard Solvent?

10 A No.

11 Q Do you know what mineral spirits are?

12 A No.

13 Q If I told you that Stoddard Solvent is mineral
14 spirits, would that ring a bell?

15 A No.

16 Q Focusing on the solvent as you said that was
17 used in the '83 to '85 period approximately,
18 could that have been Stoddard Solvent?

19 A I don't know.

20 Q Could that have been mineral spirits?

21 A I don't know.

22 Q Could it have been a strong soap solution of
23 some sort?

24 A No, I don't think it was. A solvent is all I
25 can tell you.

- 1 Q So it could have been Stoddard Solvent?
- 2 A I suppose it could have been.
- 3 Q Do you know who made the decision to use this
- 4 material under the Conrail time, around '83?
- 5 A Unh-unh.
- 6 Q Who communicated to you that you should use it?
- 7 A Well, I would say it come down from
- 8 Philadelphia.
- 9 Q Do you know for a fact it came down from
- 10 Philadelphia?
- 11 A Oh, I don't know but, hey, they probably told
- 12 the division and the division told us.
- 13 Q But you don't know who actually said it, do you?
- 14 A No.
- 15 Q Who communicated it to you?
- 16 A My general foreman.
- 17 Q Who was that?
- 18 A I don't know; I've had so many.
- 19 Q Do you know in the time, '83, can you --
- 20 A Well, it could have been Harry Biggs or it could
- 21 have been -- I can't think of his name now --
- 22 Sharp -- Ed Sharp. He's still working
- 23 somewhere.
- 24 Q Have you ever heard of TCE, trichloroethylene?
- 25 A No.

1 Q Have you ever heard of it?

2 A No.

3 Q Have you ever heard of carbon tetrachloride?

4 A I've heard of it.

5 Q Have you ever worked with it?

6 A No, not unless it's in paint while I'm painting
7 the house.

8 Q Do you know whether it's in the paint?

9 A I don't know.

10 Q So you don't know what they are?

11 A No.

12 Q You wouldn't recognize them if you smelled them?

13 A No.

14 Q Do you know whether either of those were ever
15 used at the yard?

16 A (Witness shook head.)

17 Q One final question. Going back to the solvent
18 you said that was used around '83. I was
19 talking about chlorinated solvents, Stoddard
20 Solvent, mineral spirits. Would you know the
21 different between them?

22 A No. You could mix them all together and I still
23 wouldn't know.

24 Q No one ever told you it was one versus the
25 other?

1 A No. I'm not a chemist.

2 Q Do you know what the material was that was used
3 to clean the floor? Mr. Mason may have asked
4 you this before.

5 A I don't know.

6 Q You said it wasn't a solvent as you understood
7 it.

8 A No, it wasn't a solvent. It was a cleaner, and
9 they called it a cleaner, but I don't know
10 whether it had numbers or initials. I can't
11 remember. I don't know. I don't remember.

12 Q A certain class of a cleaner?

13 A Yeah, it was a certain class of a cleaner, but I
14 can't remember whether it was like a one, two,
15 three, or four, or whether it was an A, B, or C,
16 or D.

17 MR. ERMILIO: I have no other
18 questions.

19 MR. CUNNINGHAM: I have just one
20 question.

21 CROSS-EXAMINATION

22 BY MR. CUNNINGHAM:

23 Q Did you wear boots when you cleaned the floor?

24 A No. You just wore your shoes.

25 Q Anybody ever have any problems with their shoes

1 getting --

2 A Oh, I've heard a couple complaints, but I think
3 that was due to the oil. I think a guy was just
4 trying to get me to buy him a new pair of shoes.

5 Q So it wasn't the material that was used on the
6 floor?

7 A I don't think so, no.

8 Q And it's my understanding that you don't recall
9 any kind of tank car accident involving two tank
10 cars getting punctured and carbon tet spilling,
11 while you were at the Elkhart yard, right?

12 A No, I don't recall that.

13 Q And you don't know of any major spills that took
14 place there?

15 A No. See, I wasn't there between -- I went to
16 Chicago. I think I went to Chicago as an
17 assistant superintendent in '75 and then I come
18 back in '80.

19 MR. CUNNINGHAM: I don't have any
20 further questions. Thank you.

21 MR. MASON: I have a few.

22 REDIRECT EXAMINATION

23 BY MR. MASON:

24 Q Does the material called Tysol ring a bell?

25 A No.

1 Q Did you ever hear of that?

2 A No.

3 Q How about Lix?

4 A No.

5 Q Or Diesel Heavy Kleaner?

6 A No.

7 Q When you were in the car shop and any time after
8 1971, did you see any employees cleaning journal
9 boxes without having a catch pan?

10 A Well, I suppose there has been, but I don't
11 recall it. You know, they don't want to mess
12 the place up because they have to work in this
13 one area, right, so they try to keep it clean.
14 I mean, if you keep on blowing out journal boxes
15 there, you're going to have a grease pit, right?

16 Q Right.

17 Q So that's why they tried to keep it as clean as
18 they could.

19 Q So you never personally --

20 A You wouldn't have to tell them to go get a pan
21 and put it under there, no.

22 Usually, there's a guy working on each side
23 of the truck. And this guy has two pans and
24 that guy has two pans, and they clean them and
25 dump them.

1 Q Do you recall whether journal boxes, during any
2 period of time you worked at the car shop, were
3 ever essentially self-cleaning, when nothing
4 would have to be done to the box?

5 A No, only roller bearings, not journal boxes. I
6 don't know. They do it ever so many years with
7 journal boxes, repack it. That way, you know,
8 you change the pad.

9 Q Was there ever a time when you would just change
10 the pad, take the pad out of the journal box and
11 that was all that needed to be done?

12 A Oh, yeah, you would do that. Like I say, if you
13 had a hot journal, a cut journal, then you have
14 to take the truck apart and take the pad out of
15 that one bad journal. You didn't have to blow
16 it out or clean it or anything. You put a new
17 pad in there when you put it back together is
18 all.

19 Q I want to ask a couple questions about this
20 statement you gave in Arizona.

21 Did you talk about journal boxes?

22 A Um-hmm.

23 Q Did you discuss the process used to clean the
24 boxes, with Mr. Cunningham?

25 A Yeah, I think I did, um-hmm.

1 Q Did you talk about whether solvents were used?

2 A Just solvents.

3 Q But you discussed the use of the solvents?

4 A Yeah.

5 Q Did you discuss the time periods?

6 A I can't remember. I gave him where I worked. I
7 know that.

8 Q Do you remember talking about carbon
9 tetrachloride?

10 A No. Did I?

11 Q I haven't seen it.

12 A Oh, I don't think so.

13 Q Did you talk about tank car accidents?

14 A Yeah.

15 Q Anybody from the government --

16 A See, if we had a tank car that was damaged to
17 the extent that you couldn't repair it, then you
18 would transfer the load -- whatever was in it.
19 And I'm not saying it was punctured or anything
20 like that. You get safety appliances or bent
21 sills or things you can't repair them, see, then
22 you have to transfer that whole load and then
23 load that car up and ship it home.

24 You don't repair a tank. In the first
25 place, you have to have it purged because you

1 don't know what was in, and we don't do things
2 like that.

3 Q But would that involve the car shop, though,
4 that switch of loading the tank?

5 A Well, we always had hired it done. We would
6 never do it ourselves. We couldn't do it. We
7 didn't have the system.

8 Q Do you recall that happening at the Elkhart
9 yard, with a tank that had contents in it?

10 A Yeah, it's probably happened a few times. I
11 can't remember just when, but I know it's
12 happened. And we would transfer corn or
13 anything, lumber, metal, scrap. It's all hired
14 done.

15 MR. ERMILIO: I didn't understand that.
16 Did you say "hired"?

17 THE WITNESS: Yeah, you get a company
18 to come in there.

19 MR. ERMILIO: I just didn't hear the
20 word.

21 THE WITNESS: Yeah, the company comes
22 in there and does it. Then you'd pay them.

23 BY MR. MASON:

24 Q Did any of those transfers involve a tank car
25 that was leaking a liquid or a chemical?

1 A No, not when I was there that we had a leak in
2 any that transferred.

3 We had two guys that, you know, repaired
4 the heavy repair. When you have an accident in
5 the yard and you bring these cars down and all
6 the safety appliances or the end sills and
7 everything is torn off, you have to rebuild that
8 all or you can't ship it out on the railroad,
9 see. And if it's to the extent that it's going
10 to cost more to repair it than the car is worth,
11 then you don't want to touch it. If it's a
12 load, you transfer it. If it's an empty, you
13 put it on a flat car and ship it home.

14 MR. MASON: That's all I have.

15 RECROSS-EXAMINATION

16 BY MR. CUNNINGHAM:

17 Q Anybody from the United States government call
18 you at any time recently?

19 A I don't know if it was the government man, but
20 somebody told me I had to come up here. I don't
21 know who it was. It might be in here. All I
22 got is this letter from the government.

23 MR. CUNNINGHAM: I think that's all the
24 questions I have.

25 THE WITNESS: No, I haven't heard from

anybody that I know of.

MR. ERMILIO: I have no other
questions. You're all done.

MR. CUNNINGHAM: Thank you very much,
Mr. Thimler. That ends your involvement.

(Deposition concluded at 3:15 o'clock p.m.)

+ + + oOo + + +

Melvin Thimler

SUBSCRIBED AND SWORN to before
me this ____ day of _____,
A.D., _____.

Notary Public, State of Indiana
County of Residence:
My Commission Expires:

CERTIFICATE

I, Lois A. Schoenbeck, a Notary Public in and for the County of Porter and State of Indiana, do hereby certify there appeared before me at the said time and place MELVIN THIMLER, who was first duly sworn by me to testify the truth, the whole truth, and nothing but the truth to questions propounded at the taking of the foregoing deposition.

I further certify that I then and there reported in machine shorthand the proceedings at the said time and place; that the proceedings were then reduced to typewriting from my original shorthand notes; and that the foregoing typewritten transcript is a true and correct record thereof.

I further certify that the deposition was read and signed in the presence of a duly authorized officer.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal this ____ day of _____, A.D., 1993.

Lois A. Schoenbeck

Lois A. Schoenbeck, Notary Public
State of Indiana, Porter County
My Commission Expires 08-19-94